



NATIONAL
NOTARY
ASSOCIATION

e-APP



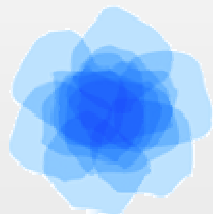
Hcch

HAGUE CONFERENCE ON
PRIVATE INTERNATIONAL LAW
CONFÉRENCE DE LA HAYE
DE DROIT INTERNATIONAL PRIVÉ



The electronic Apostille Pilot Program (e-APP)

Christophe Bernasconi
Hague Conference
First Secretary



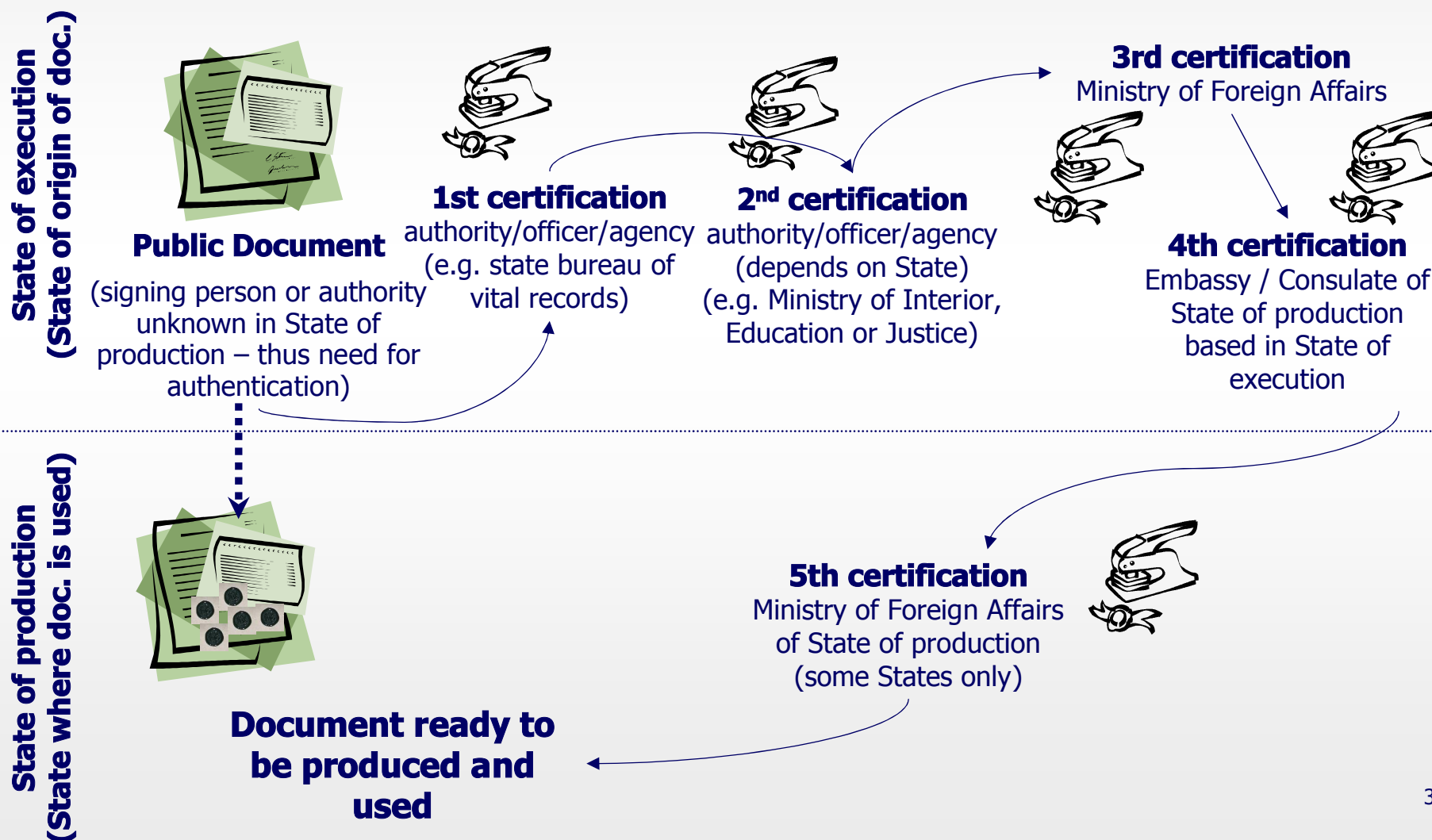
PORTUGAL 2007

e-Justice Conference

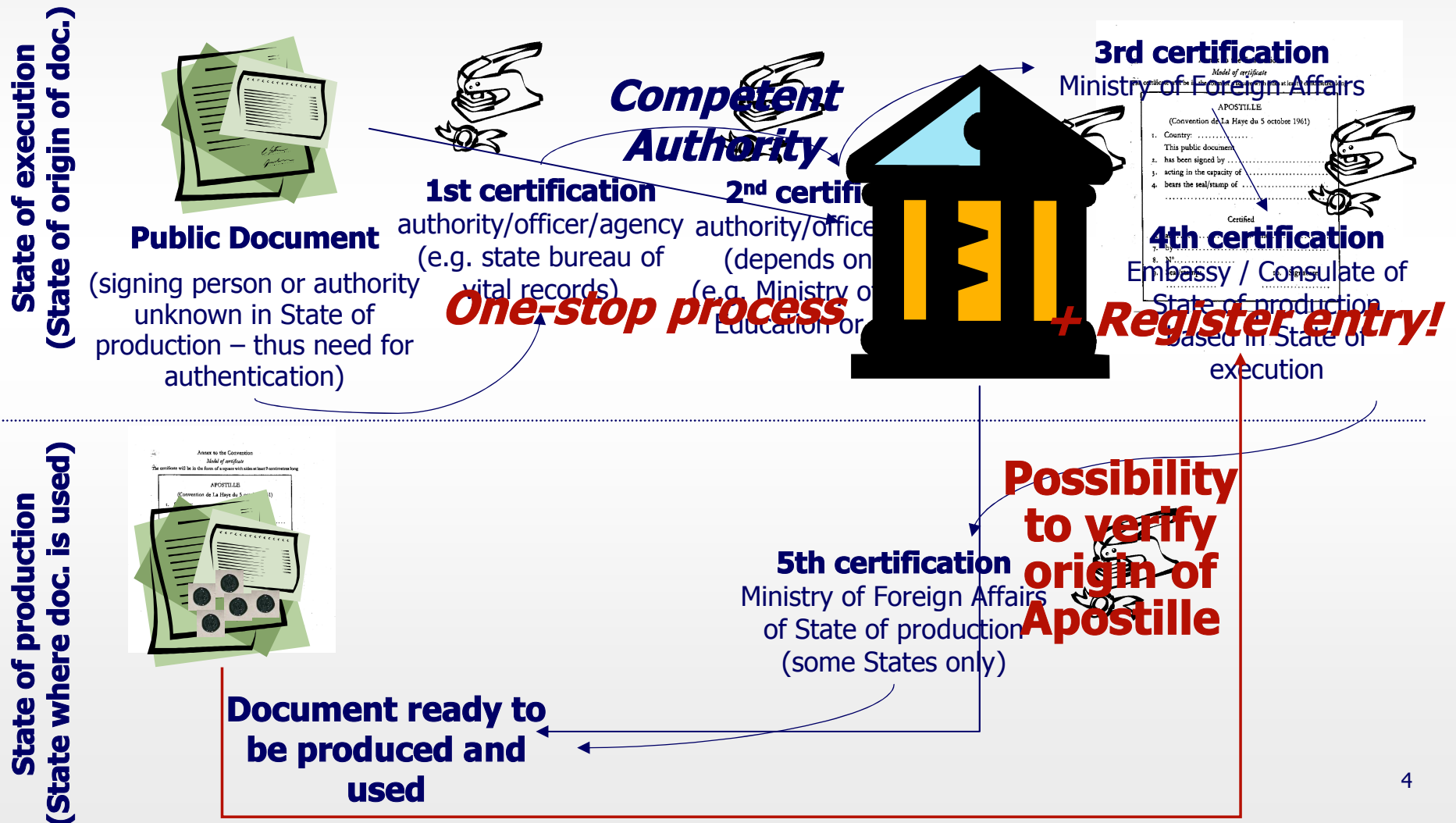
Lisbon, 2 – 4 September 2007

What is an Apostille and what purpose does it serve?

Production of public documents abroad in the absence of the Apostille Convention: the long, cumbersome and costly legalisation procedure



Production of public documents abroad with the Hague Apostille Convention



The Hague of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents (Apostille Convention)

- 92 Contracting States from around the world (incl. *a//* EU-Member States, Switzerland, Australia, China (SARs Hong Kong and Macao only), India, Japan, Korea, New Zealand, USA, etc.)
- Most widely ratified Hague Convention – continues to attract new Contracting States
- Applied *millions* of times a year – 3000 *per day* in UK and Colombia, approx. 300'000 per year in Paris – makes people's lives easier (direct impact) – frees up resources at Embassies and Consulates while still generating revenues
- Straightforward, easy to understand, uncontroversial Convention
- PB closely monitoring practical operation of Convention – see "Apostille Section" on HCCH Web site at www.hcch.net

Model of an Apostille

APOSTILLE
(Convention de la Haye du 5 Octobre 1961)

1. Country: REPUBLIC OF SEYCHELLES

This public document

2. has been signed by F CHANG-SAM

3. acting in the capacity of NOTARY

4. bears the seal/stamp of FRANCIS CHANG-SAM
NOTARY, SEYCHELLES

Certified

5. at VICTORIA 6. 20TH JUNE 2006

7. by M VIDOT, REGISTRAR, SUPREME COURT

8. No. 7526 OF 2006

9. Seal/Stamp 10. Signature

.....

+ Possible warning recalling limited effect of an Apostille: origin, not content!

So... what's the big deal?

- Most of this work is still done... *manually!*
- Three intriguing remarks about:
 - a busy French officer,
 - an eye-opening “reality-shock” involving staplers,
 - and an embarrassing truth about the Registers ...
- ***Which is why the HCCH and the NNA launched the e-APP...!***

What is the e-APP?

- Under the e-APP, the HCCH and the NNA are, together with any interested State (or any of its internal jurisdictions), developing, promoting and assisting in the implementation of low-cost, operational and secure software for the
 - i. issuance and use of electronic Apostilles (***e-Apostilles***), and
 - ii. creation and operation of electronic Registers of Apostilles (***e-Registers***)
- Implementing this software is a *suggestion* only – the e-APP does *not impose* any specific software or technology:
 - Competent Authorities can develop or use comparable open source or proprietary software to accomplish the same goals
- No need for a new Convention – no need to amend the existing Convention – keep States on board

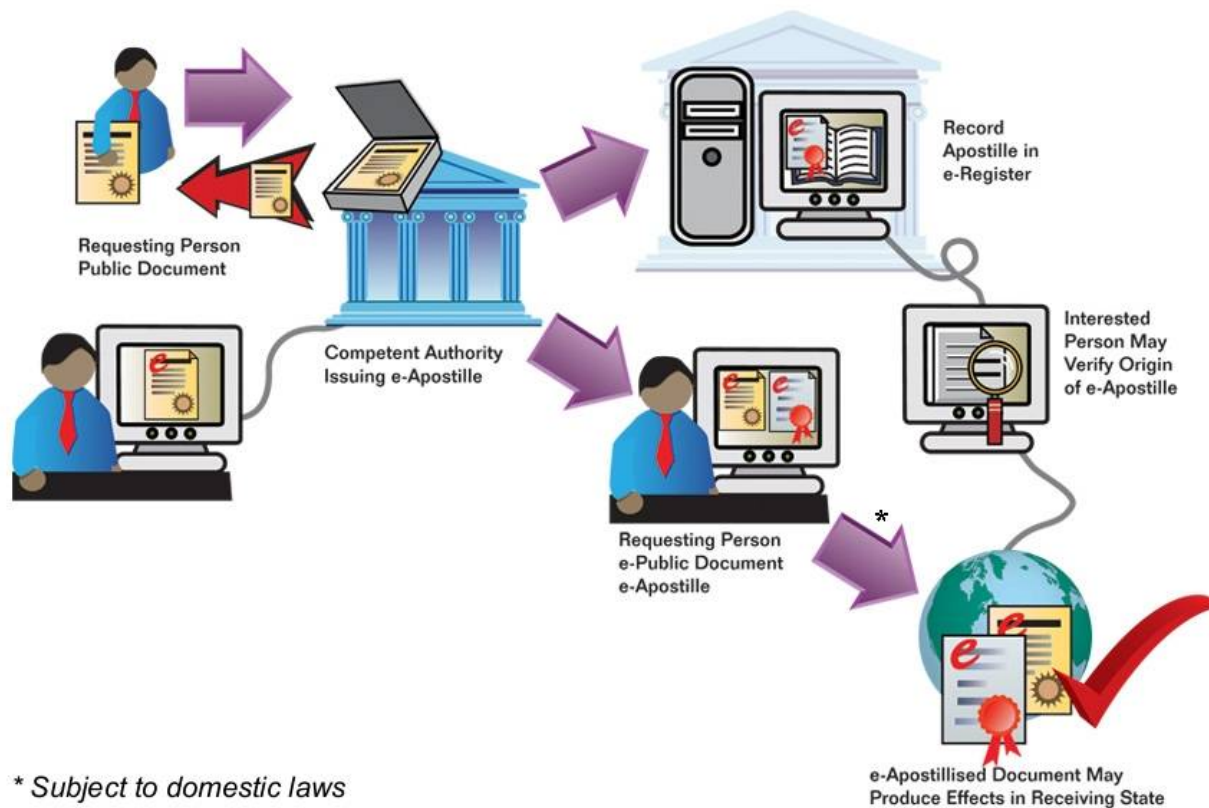
e-Apostilles

- Under the e-APP, it is suggested that Competent Authorities use readily available and already widely used PDF technology and digital certificates to issue e-Apostilles
- Considering the current methods of attaching paper Apostilles (e.g., by using staples or other insecure forms of attachment), the use of PDF e-Apostilles in combination with digital certificates offers ***dramatically increased security and effective fraud-fighting tools*** to Competent Authorities and all users of Apostilles
- Competent Authorities who contemplate issuing e-Apostilles are encouraged to contact receiving jurisdictions to inquire whether these jurisdictions will accept the envisaged e-Apostilles

e-Registers

- Under the e-APP, the HCCH and the NNA have developed free and open-source software for the creation and operation of e-Registers by Competent Authorities, and explanatory material as to how third parties can use such e-Registers
- An e-Register under the e-APP allows for easy online queries by third parties to verify the origin of an Apostille without Competent Authorities having to answer these queries individually by phone, email or otherwise
- No “fishing expeditions” possible!
- e-Registers should encourage greater use of the Register as a public convenience and a deterrent to forgery and fraud

Workflow



Where do we stand?

Note: The two components of the e-APP do not need to be implemented at the same time

- First jurisdictions to have implemented an e-APP component:
 - *Kansas (US), Republic of Colombia – Rhode Island (Feb 07)*
- *Belgium and Colombia about to have operational e-Registers in place*
- Following jurisdictions are actively exploring and/or working toward implementation:
 - *Belgium and Colombia (for e-Apostilles), Finland, UK, etc.*
- May 07: mail-out to *all* (>1000!) Competent Authorities and launch of the Web site www.e-APP.info

e-APP: The future...



... is here!

Who benefits from the e-APP?

- Staff of Competent Authorities
- Any Competent Authority that might not have a Register yet...
- Those who desire a practical and pragmatic “reality check”
- Indeed any user (both requesting person and final recipient) of Apostilles, as the overall operation of the Convention is improved, security dramatically enhanced and fraud effectively combated

➤ ***How could enhanced security and effective fight against fraud not be regarded as progress...?!***

Responses to some comments

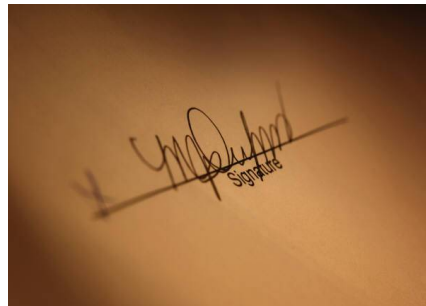
- *"Why PDF ?!" // "What about reading PDF-files in 30 years from now?"*
 - PDF because it is ubiquitous, has proven to be effective, is easy to use and reasonably priced
 - Both government and private industry around the globe increasingly rely on PDF for electronic records that need to be more securely and reliably shared, managed, and in some cases preserved for generations
 - Significantly, in JAN 07 Adobe announced the release of the entire PDF document specification to ISO for public use – allowing the PDF specification to be managed by ISO ensures that software developers can access and view PDF documents using that open standard at theoretically any point in the future without requiring the purchase of an Adobe license
 - In any case: using PDF technology is a **SUGGESTION** only! Indeed digital certificates can now also be used in MS Word 2007...

Responses to some comments

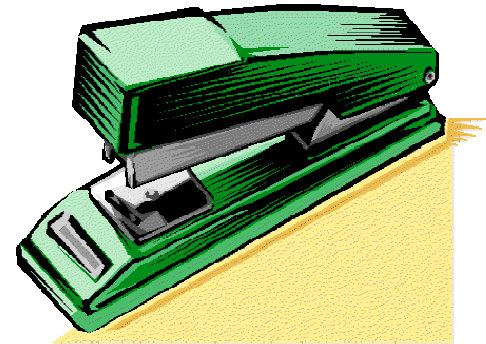
- *"How to Prevent Fraudulent Re-Use of a Printed Version of an e-Apostille" // "What about Recordkeeping and Evidence Requirements?"*
 - In case of doubt, use the relevant Register – even better: use the relevant *e-Register!*
 - In the case of digitally signed public documents a date and time stamp (preferably issued by a third party) will be produced – the relevant information may be included in standard item 2 of the Apostille Certificate ("John Doe, on 2007.01.12 13:46:17 -06'00")
 - Possible use of bar codes
 - Under the e-APP, Competent Authorities who contemplate issuing e-Apostilles are encouraged to contact receiving jurisdictions to inquire whether these jurisdictions will accept the envisaged e-Apostilles

The relevant “reality check” that should be applied to the e-APP

If



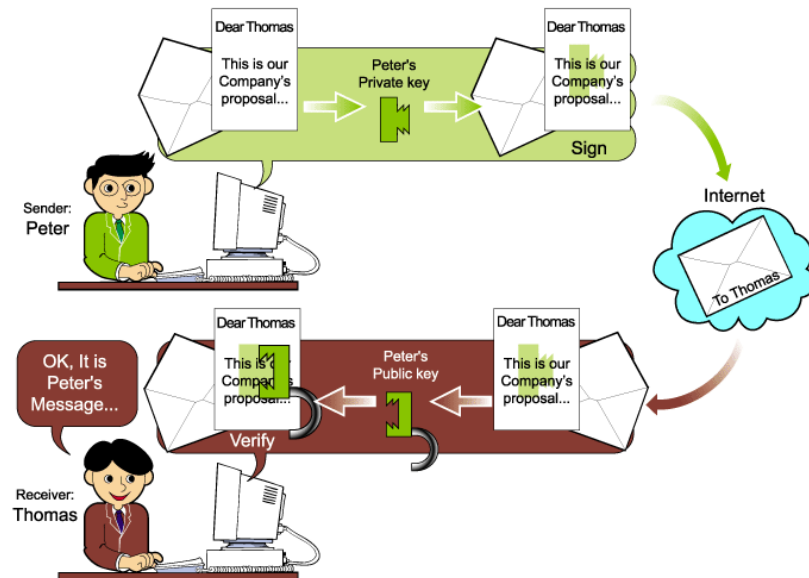
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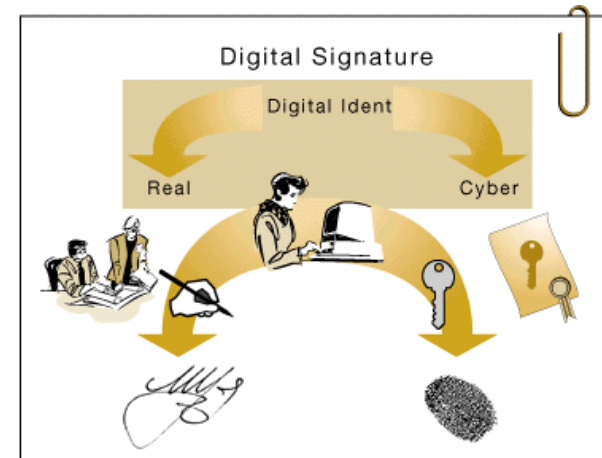
are perfectly acceptable means for issuing and affixing an Apostille (i.e., validly authenticating the origin of a public document!), then ...

The “reality check” under the e-APP

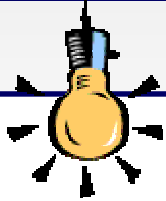
... why should an e-Apostille with a digital certificate, which offers far higher security and certainty, ...



... not be possible and acceptable?



The “reality check” under the e-APP



- *"Again, we suggest valuing the e-APP against the safety and anti-fraud levels currently reached in the paper-only environment; keeping in mind not just the e-Apostille, but also the e-Register component of the e-APP, we feel rather strongly that the e-APP by far exceeds current levels of safety and anti-fraud protection." (Prel. Doc. No 18 of March 2007)*
- One might add that the vast majority of Apostilles are used *outside courtrooms* and that in any case, **an Apostille *never relates to the content of the underlying public document, only to its origin...***



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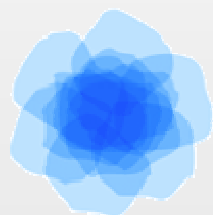
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**The e-APP:
*Allowing the Apostille
Convention to grow from
strength to strength!***

Questions?

Christophe Bernasconi
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